

STATEMENT OF FACTS

I, David M. DeFilippis, am a Special Agent of the Federal Bureau of Investigation, currently assigned to a squad that investigates public corruption and fraud against the government. In my duties as a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of Federal criminal laws. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021.

Background

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

Conduct of ROBERT FAIRCHILD

Identification of FAIRCHILD

The FBI Washington Field Office published multiple photographs on the FBI website (www.fbi.gov) of participants in the riot at the U.S. Capitol Building on January 6, 2021, seeking to identify those pictured. Each individual pictured was assigned a number to aid in identification, to include Photograph #237 - AFO A and Photograph #237 - AFO B, two photographs that were believed to be of the same person (Exhibit A).¹

Exhibit A



MOST WANTED

Ten Most Wanted Fugitives | Fugitives | Capitol Violence | Terrorism | Kidnappings/Missing Persons | Parental Kidnappings | Seeking Info | ECAP | VICAP | ▼ More

Photograph #237 - AFO A

The FBI is seeking to identify individuals involved in the riots at the U.S. Capitol on January 6, 2021, including those who assaulted federal law enforcement officers. Call 1-800-CALL-FBI or visit tips.fbi.gov to submit information. Reference the assault on federal officer (AFO) photo number when calling or submitting information online. More at fbi.gov/capitolviolence



Size: 46KB



MOST WANTED

Ten Most Wanted Fugitives | Fugitives | Capitol Violence | Terrorism | Kidnappings/Missing Persons | Parental Kidnappings | Seeking Info | Indian Country | ▼ More

Photograph #237 - AFO B

The FBI is seeking to identify individuals involved in the riots at the U.S. Capitol on January 6, 2021, including those who assaulted federal law enforcement officers. Call 1-800-CALL-FBI or visit tips.fbi.gov to submit information. Reference the assault on federal officer (AFO) photo number when calling or submitting information online. More at fbi.gov/capitolviolence



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On or about July 8, 2021, law enforcement interviewed J.L. J.L. is married to the sister of Robert Flynt Fairchild, Jr. ("FAIRCHILD"), and is a uniformed investigator with the Troup

¹ "AFO" stands for Assault of a Federal Officer.

County Sheriff's Office in Georgia. J.L. was asked to identify the individual pictured in Exhibit A and several additional photos believed to be of FAIRCHILD. J.L. identified the individual in the two photos in Exhibit A, and each of the additional photos as FAIRCHILD. J.L. stated that he was aware that FAIRCHILD was planning on going to Washington, D.C. on or about January 6, 2021, but did not know what his intentions were.

J.L. identified FAIRCHILD's phone number as (xxx) xxx-0791 ("x0791").² Law enforcement has obtained bank and credit reporting documents for Fairchild; these documents also included a telephone number for Fairchild of x0791. Records obtained from Verizon Wireless provided that it was a pre-paid phone, and therefore, subscriber or billing information was not available.

Based on a comparison of the current Florida driver's license for Robert Flynt Fairchild, Jr. in Orlando, Florida and Photographs #237 A and B, I believe these images depict the same person.

According to records obtained through a search warrant served on Verizon, on January 6, 2021, in and around the time of the incident, a mobile device associated with telephone number x0791 was identified as having used a cell site consistent with providing service to a geographic area that included the interior of the U.S. Capitol Building.

I reviewed the Body Worn Camera ("BWC") footage obtained from multiple D.C. Metropolitan Police Department ("MPD") Officers who were present during the riots on January 6, 2021. I also reviewed the video camera footage from inside the U.S. Capitol Building on January 6, 2021. During my review of these cameras and videos, I observed the individual pictured in Photographs #237 A and B on numerous occasions.

Based on the similarity in appearance of the individual in this footage to the Florida driver's license photo of Fairchild, as well as the statements made by law enforcement officer J.L. and the presence of telephone number x0791 at the U.S. Capitol on January 6, 2021, as detailed above, I believe the individual pictured in Photographs #237 A and B to be FAIRCHILD.

Conduct of FAIRCHILD on the Grounds of the U.S. Capitol

As stated above, Fairchild is captured on numerous MPD Officers' BWCs, specifically those of MPD Officers working on the exterior West Plaza of the Capitol during the riot. Throughout this footage, FAIRCHILD is seen wearing a green jacket, green neck gaiter, green knit hat, green backpack, and green gloves. Sometimes his gloves are off, and sometimes his neck gaiter covers his nose and mouth. FAIRCHILD is seen consistently moving up and down the police line along the security gate barriers/bike racks. In addition, FAIRCHILD removes, or attempts to remove, multiple security gate barriers along the West Plaza, either by himself or with the help of other rioters in the crowd. The following are a few examples:

BWC footage from MPD Officer P.N. shows FAIRCHILD testing the gated perimeter in front of officers. At the 13:23 timestamp (1:23 P.M.), FAIRCHILD is seen grabbing the security

² The full phone number is known to the undersigned, but omitted here.

gate by himself and attempting to remove it from the officers' control (Exhibit B1). FAIRCHILD is unsuccessful, and shortly thereafter, at the 13:24 timestamp (1:24 P.M.), pulls his neck gaiter down from his face to talk to other people in the crowd (Exhibit B2).

Exhibit B1



Exhibit B2



BWC footage from MPD Officer B.S. shows FAIRCHILD again approaching the security barriers in front of the West Plaza. He is standing directly in front of the barriers, with MPD and U.S. Capitol Police Officers directly behind and guarding the barriers. At the 14:10 timestamp (2:10 P.M.), FAIRCHILD, then wearing green gloves, is seen pushing with the crowd against the barriers, causing Officers to use their batons and hands to fight back (Exhibit C).

Exhibit C



BWC footage from MPD Officer J.C., who was standing near MPD Officer B.S., shows another angle at the 14:10 mark of FAIRCHILD using his body to push the barriers directly into the line of MPD officers, and an MPD Officer pushing FAIRCHILD back to secure the line (Exhibit D1). FAIRCHILD's hat falls off in the tussle. FAIRCHILD is then observed five minutes later, at the 14:15 mark (2:15 P.M.), helping the crowd carry away a barrier removed from the front of the police line (Exhibit D2).

Exhibit D1



Exhibit D2



I have reviewed both body worn camera video and closed circuit television (“CCTV”) footage of the line of officers standing at and around the barriers described above, and Capitol

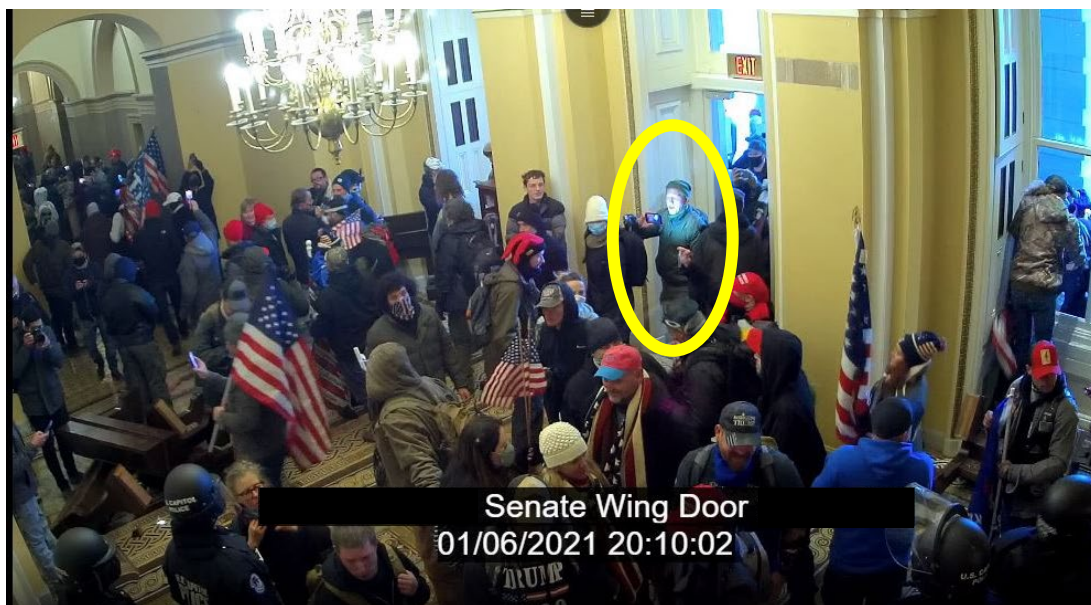
police officers are present in that area and are assisted by MPD officers. I know that Capitol police officers are officers or employees of the United States.

Conduct of FAIRCHILD Inside the U.S. Capitol Building

As stated above, FAIRCHILD is also captured on CCTV footage from inside the U.S. Capitol Building on January 6, 2021, specifically near the Senate Wing Door. Video reveals FAIRCHILD entering and exiting the Capitol Building, as follows:

At approximately 3:09 P.M. (20:09:55 UTC), FAIRCHILD is seen walking through the Senate Wing Door wearing a green jacket and a green knit hat, and holding a cellular phone with the light on. FAIRCHILD appears to be taking a video of himself as he entered the Capitol Building, as pictured below (Exhibit E). The video continues with FAIRCHILD appearing to take video of the inside of the Capitol while walking around the Senate Wing hallway. At approximately 3:10 P.M. (20:10:42 UTC), FAIRCHILD is seen walking south down the Senate Wing hallway toward a room known as the Crypt, then is no longer visible in the crowd.

Exhibit E



For approximately 16 minutes, from 3:10 P.M. to 3:26 P.M., it is unknown where FAIRCHILD went, as he is not observed on any additional video cameras inside the Capitol Building. At approximately 3:26 P.M. (20:26:57 UTC), FAIRCHILD reappears on video and is seen walking back north up the Senate Wing hallway toward the Senate Wing Door. He is wearing the same clothing and does not appear to have any additional items on his person. FAIRCHILD then makes his way to the front of the broken exterior window to the south of the exterior door at approximately 3:27 P.M. (20:27:45 UTC). FAIRCHILD stands there for about a minute and appears to be taking video of the crowd with his phone with the light on. At approximately 3:28 P.M. (20:28:36 UTC), FAIRCHILD appears to be videoing himself with his cellular phone while yelling with the crowd, as pictured below (Exhibit F); however, no audio is available from these

cameras. At approximately 3:29 P.M. (20:29:26 UTC), FAIRCHILD is seen exiting the Capitol Building through the Senate Wing Door.

Exhibit F



In addition to the CCTV, FAIRCHILD appears in a live video feed with audio named “TRUMP RALLY DC ·DLive” provided to the FBI tip line. FAIRCHILD is seen inside the Senate Wing hallway of the Capitol building, standing with a crowd of people near the broken exterior window to the south of the exterior door. He appears to be taking video of himself with his cellular phone, which has a red case. This live feed footage corresponds to the United States Capitol CCTV, as described above at approximately 3:28 P.M. During the live feed, audio can be heard from FAIRCHILD and the crowd yelling “Fight for Trump” (Exhibit G). Based on my knowledge of the investigation, and review of this video, I know that the United States Capitol was on lockdown at this time. J.L. was shown the screenshot in Exhibit G and identified the individual in the green knit hat and green jacket in the foreground as FAIRCHILD.

Exhibit G



Charges

Based on the foregoing, your affiant submits that there is probable cause to believe that FAIRCHILD violated 18 U.S.C. § 1752(a)(1), (2) and (4) which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds; or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a “restricted building” includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

Your affiant submits there is also probable cause to believe that FAIRCHILD violated 40 U.S.C. § 5104(e)(2)(D), (F) and (G), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

Your affiant submits there is probable cause to believe that Fairchild violated 18 U.S.C. § 111(a)(1), which makes it unlawful to forcibly assault, resist, oppose, impede, intimidate, and interfere with, an officer and employee of the United States, and of any branch of the United States Government (including any member of the uniformed services), and any person assisting such an officer and employee, while such officer or employee was engaged in or on account of the performance of official duties, and where the acts in violation of this section involve physical contact with the victim and the intent to commit another felony. For purposes of Section 111 of Title 18, persons “assisting” federal officers or employees include the MPD Officers who were assisting U.S. Capitol Police and other federal law enforcement officers in responding to the events of January 6, 2021.

Your affiant submits there is also probable cause to believe that FAIRCHILD violated 18 U.S.C. § 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function. For purposes of Section 231 of Title 18, a federally protected function means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof. This includes the Joint Session of Congress where the Senate and House count Electoral College votes.

Finally, your affiant submits there is probable cause to believe that FAIRCHILD violated 18 U.S.C. § 1512(c)(2), which makes it a crime to obstruct, influence, or impede any official proceeding, or attempt to do so. Under 18 U.S.C. § 1515, congressional proceedings are official proceedings.



David M. DeFilippis
Special Agent
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this _____ day of August 2021.

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE